1942 K

File No B Criminal Tribes/42

Legal **DEPARTMENT**

B. BRANCH

Subject:—

Governor's Bill No XIV of 1942

A Bill to amend the Criminal Tribes Act. 1924 in its application to the Province of Bombay

(Amendat of S. 23 and insertion of new Schedule.)

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Bom XIV of 1942

File No. B. Criminal Tribes/42

Fd. Secs. Slip 21 A

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Office of the R.L.A.

The requisite draft Bill as slightly revised is enclosed. Section 311,326,459 and 460 of the Indian Penal Code omitted by the Under Secretary, Home Department, have been included in the Schedule. For, it cannot possibly be the intention to exempt members of the Criminal Tribe previously convicted under any of these sections from the enhanced punishment which the Bill provides for.

2. The subject-matter of the Bill falls under entries Nos. 1 and 23 in the Concurrent Legislative List. H.D. should, therefore, before undertaking legislation consult the administrative Department concerned of the Government of India, vide H.D. endorsement No. 950/4-IV-B, dated 10th January 1941. Under executive instructions the Bill also requires the previous approval of the Governor General before enactment. As the Bill provides for punishment different from that provided for in the existing section 23(1) of the Criminal Tribes Act, the provisions of the Bill are repugnant to the provisions contained in the said section of the Criminal Tribes Act, which is an existing Indian law relating to entries 1 and 23 in the Concurrent Legislative List. The Bill will have, therefore, to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

Sd/-
P.N.N.
Remembrancer of Legal Affairs.

L.R. to H.D. , No. 9696, dated the 17th November 1941.

Mr/30/4

GOVERNOR'S BILL NO OF 1941

A Bill to amend the Criminal Tribes Act, 1924, in its application to the Province of Bombay.

VI of 1924

Whereas it is expedient to amend the Criminal Tribes Act, 1924, in its application to the Province of Bombay, for the purpose hereinafter appearing:

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him

26 Geo. 5, c. 2

under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :-

Short title.

1. This Act may be called the Criminal Tribes (Bombay Amendment) Act, 1941.

Ur/30/4

Amendment of section 23 of Act VI of 1924

VI of 1924

2. In section 23 of the Criminal Tribes Act, 1924, hereinafter called the said Act, for sub-section (1) the following sub-section shall be substituted, namely:-

"(1) Whoever, being a member of any criminal tribe and having been convicted of any of the offences under the Indian Penal Code specified in Schedule A, is convicted of the same or of an, other offence specified in the Schedule shall be punishable with transportation for life or with imprisonment of either description for a term which may extend to ten years".

XLV of 1860

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3. For Schedule I to the said Act the following schedule shall be substituted, namely:-

SCHEDULE I.

(See section 23 of the Act)

Chapter XII.

Sections.

231. Counterfeiting coin.

232. Counterfeiting Queen's coin.

233. Making or selling instrument for counterfeiting coin.

234. Making or selling instrument for counterfeiting Queen's Coin.

235. Possession of instrument or material for the purpose of using the same for counterfeiting coin.

239. Delivery of coin, possessed with knowledge that it is counterfeit.

240. Delivery of Queen's coin possessed with the knowledge that it is counterfeit.

242. Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

243. Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

Chapter XVI

304. Culpable homicide not amounting to murder.

307. Attempt to murder.

308. Attempt to commit culpabal homicide.

311. Being a thug.

324. Voluntarily causing hurt by dangerous weapons or means.

325. Voluntarily causing greivous hurt.

326. Voluntarily causing grievous hurt by dangerous weapons or means.

327. Voluntarily causing hurt to extort property or to constrain to an illegal act.

328. Causing hurt by means of poison, etc., with intent to commit an offence.

328. Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.

332. Voluntarily causing hurt to deter public servant from his duty

333. Voluntarily causing grievous hurt to deter public servant from his duty.

369. Kidnapping child under ten years with intent to steal from its person.

Chapter XVII

382. Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.

384. Extortion.

385. Putting person in fear of injury in order to commit extortion.

386. Extortion by putting a person in fear of death or grievous hurt.

387. Putting a person in fear of death or of grievous hurt in order to commit extortion.

392. Robbery.

393. Attempt to commit robbery.

394. Voluntarily causing hurt in committing robbery.

395. Dacoity.

397. Robbery or dacoity, with attempt to cause death or grievous hurt.

398. Attempt to commit robbery or dacoity when armed with deadly weapon.

399. Making preparation to commit dacoity.

402. Assembling for purpose of committing dacoity.

457. Lurking house trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.

458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.

459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

460. All persons jointly concerned in lurking house-trespass or house-breaking by nigh punishable where death or grievous hurt caused by one of them.

No. 5303
Legal Department
Bombay Castle, 29th June 1942

From P.N. Moss, Esquire, Bar-At-Law, I.C.S.,
Secretary to the Government of Bombay

To,
The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Criminal Tribes Act, 1924, in its application to the Province of Bombay.

Sir,

With reference to your Memorandum No. 201 (58), dated the 30th March 1942, addressed to the Home Department, on the above subject, I am directed to forward herewith a copy of the Bill to amend the Criminal Tribes Act, 1924, in its applicatio.. to the Province of Bombay, prepared by His Excellency the Governor under paragraph(2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935

2. None of the provisions of the Bill affects any special responsibility of the Governor under section52(1) of the Government of India Act, 1935, or falls within the purview of clause (a),(b),(c) or (d) of Paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entries 1 and 23 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. As the Bill provides for punishment different from that provided for in the existing section 23(1) of the Criminal Tribes Act, 1924 the provisions of the Bill are repugnant to the provisions contained in the said section of the Criminal Tribes, Act, which is an existing Indian law relating to entries 1 and 23 in the Councurrent Legislative List. The Bill will have, therefore, to be reserved for the consideration of the Governor General with reference paragraph (2) of the Proclamation and section 107(2) of

.ernment of India Act, 1935

4. I also forward herewith six spare copies of the Bill out of which five copies are for transmission to --- Secretary to the Governor General (Public).

Your obedient servant,

Sd/-

Secretary to the Government of Bombay,

Legal Department

Through

The Secretary to the Government of Bombay,

Home Department.

Hr/30/4

Legal Department.

The Bill to amend the Criminal Tribes Act, 1924 in its application to the Provinces of Bombay, has been forwarded separately through the Home Department to the Secretary to the Governor for obtaining the assent of His Excellency the Governor General to the Bill.

2. A draft notification under section 92(1) of the Government of India Act, 1935, for applying the proposed Act to the partially excluded areas in this Province is furnished herewith. If it is decided to apply the Act to the said areas, the notification should be published in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government Gazette.

3. Attention of the Home Department is requested to this Department Circular No 7627, dated the 20th August 1941 and this Department U.O. to Home Department No. 8272, dated the 13th March 1942, Orders of Government on the Question of application of the Act, to the partially excluded areas in this Provinces should have been obtained and communicated to this Department at the time of forwarding the papers for obtaining assent to the Bill.

Sd/-
for Secretary to the Government of Bombay
Legal Department.

U.O. to H.D., No. 5304, dated the 20th June 1942.

Dr/30/4

NOTIFICATION

Home Department,
Bombay Castle 1942

No. — In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Criminal Tribes (Bombay Amendment) Act, 1942 (Bom. 8 of 1942) shall apply to the partially excluded areas in the Province of Bombay

To be filled in by the H.D. before issue

By order of the Governor of Bombay,

Secretary to Government

Ur/30/4

Acts.

Publication of the Criminal Tribes (Bombay Amendment) Act, 1942

GOVERNMENT OF BOMBAY
Legal Department
Resolution No 6520

Bombay Castle, 12th August 1942

Letter to the Secretary to the Governor, No. 5303, dated the 20th June 1942.

Letter from the Secretary to the Governor, No. 201 (58) dated the 10th August, 1942.

With reference to your Letter No. 5303, dated 20th June 1942, on the above subject, I am directed to forward herewith the copy of the Criminal Tribes (Bombay Amendment) Bill, 1942, with His Excellency the Governor-General's assent signified thereon.

RESOLVED The law should be published as Bombay Act No XXV of 1942, in the Bombay Government Gazette dated the 12th August 1942.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,
Sd/-
G.E. Valoor

For P.W. Noon,
Secretary to Government.

To:
The Manager, Government Central Press, Bombay,
(with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department)
The Home Department)
The Oriental Translator to Government) With copy of
The Secretary to the Bombay Legislative Council) the Act.
The Secretary to the Bombay Legislative Assembly.)

With five extra copies.

Hr/30/4

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Registered No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY.

WEDNESDAY, 12TH AUGUST 1942.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

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The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 31st July 1942, is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XIV OF 1942.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 12th August 1942.)

An Act to amend the Criminal Tribes Act, 1924, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Criminal Tribes Act, 1924, in its application to the Province of Bombay, for the purposes hereinafter appearing ;

VI of 1924.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

26 Geo. 5, c. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. This Act may be called the Criminal Tribes (Bombay Amendment) Act, 1942. Short title.

2. In section 23 of the Criminal Tribes Act, 1924, hereinafter called the "said Act", for sub-section (*1*) the following sub-section shall be substituted, namely :— Amendment of section 23 of Act VI of 1924.

VI of 1924.

"(*1*) Whoever, being a member of any criminal tribe and having been convicted of any of the offences under the Indian Penal Code specified in Schedule I, is convicted of the same or of any other offence specified in the Schedule shall be punishable with transportation for life or with imprisonment of either description for a term which may extend to ten years."

XLV of 1860.

Substitution of new Schedule for Schedule I to Act VI of 1924.

3. For Schedule I to the said Act the following Schedule shall be substituted, namely :—

"SCHEDULE I.

(See section 23.)

SECTIONS.

CHAPTER XII.

231. Counterfeiting coin.

232. Counterfeiting Queen's coin.

233. Making or selling instrument for counterfeiting coin.

234. Making or selling instrument for counterfeiting Queen's coin.

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458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.

459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them."

STATEMENT.

Under section 23 of the Criminal Tribes Act, 1924, severe minimum penalties have been provided for second, third and subsequent convictions of members of criminal tribes for offences specified in Schedule I to the Act. In paragraph 74 of its report, the Criminal Tribes Act Enquiry Committee observes that the section is most obnoxious and that the sentences inflicted under that section are brutal and has recommended its repeal. Government has considered the Committee's recommendation and has come to the conclusion that it would be expedient rather than repeal the section to modify it so as to remove the provisions regarding minimum penalties. Section 75 of the Indian Penal Code which makes ordinary habitual offenders liable to enhanced punishment is not considered sufficient in the case of members of criminal tribes as the range of offences to which this section is applicable is considerably narrower than that to which the present section 23 of the Criminal Tribes Act applies. It is therefore proposed to amend section 23 and to recast Schedule I of the Criminal Tribes Act so as to remove certain inaccuracies in the existing Schedule.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.